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In the Supreme Court of the United States

OCTOBER TERM, 1954

No. 622

ALPHA SILK COMPANY, ET AL., PETITIONERS

v.

THE UNITED STATES

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

The opinion of the Court of Claims (Pet. App., pp. 8-58) is reported at 125 F. Supp. 941.

JURISDICTION

The judgment of the Court of Claims was entered on November 30, 1954. The petition for a writ of certiorari was filed on February 26, 1955. The jurisdiction of this Court is invoked under 28 U. S. C. 1255.

QUESTIONS PRESENTED

1. Whether the Court of Claims erred in holding that the taking of petitioners' raw silk occurred on

October 16, 1941 (when the Office of Production Management issued amended Preference Order M-22, which required acceptance of contracts or orders for raw silk placed by Defense Supplies Corporation) rather than on July 26, 1941 (the date of the original Order M-22, which prohibited the delivery of raw silk without specific authority).

2. Whether, upon all the evidence, the Court of Claims properly fixed just compensation for the value of the silk at $3.08 a pound rather than at $3.57 a pound, the closing price on July 25, 1941, the last day of trading on the market.

STATUTES AND REGULATIONS INVOLVED

The provisions of the Act of May 31, 1941, 55 Stat. 236, amending the Act of June 28, 1940, 54 Stat. 676, of General Preference Order M-22 issued by the Office of Production Management, 6 Fed. Reg. 3731, and of the amendments thereto, 6 Fed. Reg. 3892, 4046, 5290, are set forth in the Appendix, *infra,* pp. 18-26.

STATEMENT

In their petitions to the Court of Claims, petitioners sought recovery on the theory that raw silk, which they alleged to have been taken from them by the Government on July 26, 1941, was to be valued at $3.57 a pound.[1] The issues raised having been before the Court of Claims on virtually the same facts in *Edward P. Stahel & Co.* v. *United States,* 111 C. Cls. 682, certiorari denied, 336 U. S.

[1] Petitioners have already been paid $3.08 a pound and their actions are for the difference (Pet. App. p. 53).

951, the court, after full consideration, reaffirmed its *Stahel* position, holding that the taking had occurred on October 16, 1941 and that the fair value of raw silk at that time was $3.08 a pound. The pertinent facts as found by the court below may be summarized as follows:[2]

From July 21, 1941 to July 25, 1941, the market price for raw silk in the United States rose rapidly. The closing prices on the New York Commodity Exchange for delivery within the current month moved from $3.04 to $3.65, including jumps of $ .19 (July 22-23) and $ .35½ (July 24-25) (Pet. App. p. 17). Raw silk was also traded by direct sales on the "spot" market in New York City (Pet. App. p. 15) and the last actual sale on July 25, 1941, was at $3.57 (Pet. App. p. 17). During the preceding ten years, the average monthly price exceeded

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[2] Probably because the parties stipulated that the general findings in *Stahel* should be considered as facts in this case (Memorandum re Pre-Trial Conference, April 5, 1950), the findings here, in large measure, are identical to those in *Stahel* and in many instances are in *haec verba*. Compare Pet. App. pp. 13-52 with 111 C. Cls. at pp. 686-718, Record in No. 490, October Term, 1948, pp. 43-80.

The new findings in the instant case are No. 8, setting forth the transactions of two of petitioners between July 21 and July 25, 1941; No. 28, describing the litigation which upheld the action of the N. Y. Commodity Exchange in liquidating outstanding future contracts on the basis of closing prices on July 25, 1941; and No. 32, describing raw silk inventory reports required by Office of Production Management. Finding 7 herein omits information as to the date of purchase of the silk involved in *Stahel;* findings 9 and 31 substitute reference to the appropriate petitioners herein for the reference in the corresponding findings in *Stahel;* and there are minor changes in findings 6 and 10.

$3.08 in only four months (Pet. App. p. 16). This occurred between September 1939 and February 1940, following the outbreak of the Second World War, and the court found that the price fluctuations then were similar to the fluctuation between July 21 and July 25, 1941 (Pet. App. p. 18).

On July 26, 1941, the President of the United States issued Executive Order 8832, 3 C. F. R., 1941 Supp., 246, freezing all Japanese assets in this country. This order also terminated all commercial transactions in raw silk with Japanese nationals and thus cut off the source of supply for practically all of the raw silk used in this country. (Pet. App. pp. 19-20, 13-14.) While the public did not know of the imminence of this action until the President's press conference on the preceding afternoon, there was common knowledge of the strained relations between the United States and Japan, and the fear of a cut-off in the supply of silk was a very important factor in the price rise from July 21 to July 25, 1941 (Pet. App. p. 20). Thus, there had been a markedly abnormal relationship between market prices in Japan and the United States since the beginning of July 1941; prices in Japan fell as prices here rose, until on July 25 the spread was approximately 91 cents as compared with the normal spread of 10 to 15 cents (Pet. App. p. 19). In the absence of price control, the price of raw silk would have continued to rise (Pet. App. p. 19).

On the same day that Executive Order 8832 was issued, the Office of Production Management,

acting pursuant to the Act of June 28, 1940, as amended by the Act of May 31, 1941 (App. *infra*, pp. 18-20), issued General Preference Order M-22 which prohibited the delivery or acceptance of raw silk without the specific authorization of the Director of Priorities (Pet. App. p. 21). Also, on July 26, 1941, the New York Commodity Exchange, the only market in the United States for dealing in futures contracts in raw silk (Pet. App. p. 15), suspended such trading at the request of the Administrator of the Office of Price Administration and Civilian Supply. Concurrently, the Administrator announced that, within a few days, his Office would impose a price ceiling on raw silk at approximately the level that had prevailed in the markets on July 21, 1941 (Pet. App. p. 22).

On August 2, 1941, the Office of Price Administration and Civilian Supply issued Price Schedule No. 14, which set a price ceiling of $3.08 a pound. This was based upon a finding, *inter alia*, that the sharp price rise during the week of July 21, 1941 had been due to the fear of a curtailment of supply. (Pet. App. pp. 23-25.) On the same day, the Office of Production Management amended General Preference Order M-22 so as to forbid all processing of raw silk unless specifically authorized by the Director of Priorities (Pet. App. p. 23). On August 12, 1941 this preference order was amended to permit deliveries of raw silk, without specific authorization, to Defense Supplies Corporation or pursuant to its instructions (Pet. App. p. 28).

Again, on October 16, 1941, the Office of Produc-

tion Management amended Order M-22. The pertinent part of that amendment was as follows:

963.1 General Preference Order No. M-22

(a) *Applicability of Priorities Regulation No. 1*—All of the provisions and definitions of Priorities Regulation No. 1, issued by the Director of Priorities on August 27, 1941, shall be deemed a part of this Order, except in so far as they are inconsistent herewith.

(b) *Required and permitted deliveries.*

(1) The following orders are hereby assigned a preference rating of A-10, and acceptance thereof is required:

(i) Any contract or order for silk cloth, shroud lines, tape or thread for either life, materiel, or flare parachutes placed by the War Department, the Navy Department, or the Department of Commerce for such parachutes to be delivered to or for the account of the Army, Navy or Weather Bureau of the United States.

(ii) Any contract or order for silk in any form required by the person placing the same to fulfill his contracts or orders on hand, provided such silk is to be physically incorporated in material to be delivered under contracts or orders included under (i) above.

(iii) Any contract or order for raw silk placed by the Defense Supplies Corporation.

By further amendment to this order on October 28, 1941, each owner of raw silk was required to submit written reports of his inventory as of October 30, 1941 (Pet. App. pp. 30, 52). Previously, the Office of Production Management had required similar reports as of August 2, 1941 (Pet. App. p. 51).

On September 1, 1941, the Defense Supplies Corporation sent to various holders of raw silk a form of purchase contract known as "D. S. C. Silk No. 1" with a letter offering to purchase silk at the ceiling price but containing no mention of priority orders (Pet. App. pp. 32-35). A new form of contract "D. S. C. Silk No. 3" was adopted about December 22nd and sent on December 23rd to all known holders of raw silk. This latter form contained a specific reference to Amended Order M-22 of October 16, 1941, and "required" acceptance under the A-10 priority there given (Pet. App. pp. 36-38). Petitioners delivered the raw silk involved in this action under these forms (Pet. App. p. 53). Except for the plaintiffs in C. Cls. No. 47765, all petitioners made deliveries after October 16, 1941, in the total amount of 2,273,111.53 pounds (Pet. App. p. 54). In addition, thirteen petitioners made deliveries between July 26, 1941 and October 16, 1941 of 368,-311.39 pounds (Pet. App. p. 54). Each of the petitioners was paid at the rate of $3.08 a pound (Pet. App. p. 53).

On February 10 and March 17, 1942, the War Production Board requisitioned all raw silk not owned by Defense Supplies Corporation and

awarded compensation at the price of $3.08 per pound (Pet. App. pp. 39-40). See *A. D. Walker & Co.* v. *United States*, 105 C. Cls. 553. On February 18, 1942, the Office of Price Administration revoked Price Schedule No. 14 on the grounds that substantially all stocks of silk in the country had been acquired by the United States Government or were being used to fulfill Government contracts (Pet. App. p. 32).

On the basis of these findings, the Court of Claims, after reexamining the issues, concluded, as in *Stahel*, that petitioners' raw silk had been taken by the Government on October 16, 1941, the day upon which the Office of Production Management amended General Preference Order M-22 to make acceptance of Government contracts or orders mandatory, and that all deliveries after October 16, 1941, whether on D. S. C. Silk No. 1 or No. 3, were pursuant to that taking (111 C. Cls. at p. 742). Also, the Court of Claims concluded (as in *Stahel*, but, in this instance, unanimously) that $3.08 a pound was just compensation (111 C. Cls. at pp. 743-745). Petitioners herein (except for C. Cls. Nos. 47764 and 47765[3]) were granted judgment, with respect to silk delivered after October 16, 1941, for the interest from October 16 to the date

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[3] The plaintiffs in C. Cls. No. 47764 failed to prove that they were successors in interest to Massachusetts Knitting Mills which had delivered raw silk pursuant to the Government orders (finding 1(j), Pet. App. p. 12). Plaintiffs in C. Cls. No. 47765 were held not entitled to recover because all their silk had been delivered prior to October 16, 1941 (Pet. App. p. 54).

of payment, for the carrying charges incred subsequent to October 16, and for an adjustent with respect to regrading of such silk (PetApp. pp. 55-58).[4]

ARGUMENT

Although it makes some effort to distguish the *Stahel* decision,[5] the petition here seeksview on the basis of the same contentions unsccessfully advanced in the petition for a writ ofertiorari filed in that case. See Petition in No.190, Oct. Term, 1948. The significance of the issueinvolved —which was, at best, limited when the *Stahel* petition was filed in this Court, some six yrs ago— has melted with the passage of time. Te instant decision of the Court of Claims, unanimously reaffirming the position adopted by that cort in the

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[4] After the Court of Claims ruling in *Stahel*, tl parties to the instant case stipulated that they would "abidey the decision of the United States Supreme Court" in *Stahel* as to whether a taking occurred and as to the time of taing (Report of Commissioner, finding 33, Clerk's tr. of pleadgs, etc., p. 299). However, after this Court denied certiorar petitioners contended that the stipulation was of no effect. Thereafter, the cases proceeded to trial.

[5] Petitioners seek to distinguish *Stahel* by asserng that the record in the present case contains (1) more evidnce than in *Stahel* of a Government "plan" to appropriate thr property, with the freeze order allegedly being the first of rlated steps, and (2) evidence that the trading during the wek of July 21-25, 1941, was in substantial amounts and in ne ordinary course of business (Pet. pp. 24-27). However, te Court of Claims' findings indicate that the additional evidnce as to a Government plan was insufficient to warrant a cange in the comparable finding in *Stahel*. *Infra*, pp. 12-13. And while the court did make an additional finding as to trding during the week of July 21-25, the court properly corluded that this finding did not affect the finding as to abnormality of raw silk prices during that week. *Infra*, pp. 15-16.

earlier *Stahel* case, is correct. It raises no issue of general importance and involves no conflict of decision.

1. Petitioners contend that General Preference Order M-22, issued by the Office of Production Management on July 26, 1941, prohibiting the delivery or acceptance of delivery of raw silk without the specific authorization of the Director of Priorities of OPM, constituted a taking. They argue, in this connection, that the order prohibited them, indefinitely, from using their property at will and that, in the circumstances (alleged to include a "plan" for Governmental seizure of the silk), they were then and there deprived of ownership (Pet. pp. 12-15).

(a) The order of July 26, 1941 was issued pursuant to the Act of May 31, 1941 (*infra*, pp. 18-20). In the absence of the "plan" alleged by petitioners, it is clear that the issuance of the July 26 "*freezing*" order did not amount to a taking. Acts done in the proper exercise of governmental powers do not amount to a "taking" simply because injury is suffered, but only if there is actual appropriation of the property or a direct invasion of it. *Transportation Co.* v. *Chicago*, 99 U. S. 635, 642; *Gibson* v. *United States*, 166 U. S. 269, 275-276. It follows, of course, that the same rule applies to acts done in the proper exercise of the war powers. *Hamilton* v. *Kentucky Distilleries Co.*, 251 U. S. 146, 156-157; *Atwater & Co.* v. *United States*, 275 U. S. 188, 190-191; *Omnia Co.* v. *United States*, 261 U. S. 502, 508-509.

While, as petitioners point out, "governmental action short of acquisition of title or occupancy" (*United States* v. *General Motors Corporation*, 323 U. S. 373, 378) may in some circumstances result in a taking, this is so only when the effects of the action "are so complete as to deprive the owner of all or most of his interest in the subject matter" (*ibid.*). See *United States* v. *Causby*, 328 U. S. 256, 261-263. Accordingly, no compensable taking of property occurred when the Government froze raw materials, thereby compelling a plant to close (*St. Regis Paper Co.* v. *United States*, 110 C. Cls. 271, certiorari denied, 335 U. S. 815); ordered a gold mine closed as nonessential (*Oro Fino Consolidated Mines* v. *United States*, 118 C. Cls. 18, certiorari denied, 341 U. S. 948); detained vessels (*Royal Holland Lloyd* v. *United States*, 73 C. Cls. 722;[6] *Graham* v. *United States*, 2 C. Cls. 327, 340); or, as here, prohibited sale of property unless specifically authorized (*Malvin Volk* v. *United States*, 120 C. Cls. 57, 65, certiorari denied, 343 U. S. 903; *Henderson* v. *Bryan*, 46 F. Supp. 682 (S. D. Calif.)).

The freeze order did not constitute a taking because at that point there was no compulsion to deliver to the United States. See *Bowles* v. *Wil-*

[6] In *Royal Holland Lloyd* v. *United States*, the detention of the vessel was followed, five months later, by seizure and requisition of it, much as the freeze order herein was followed by an appropriation of the silk. Compensation was paid for the requisition and the court properly held that the taking occurred at the time of seizure and not earlier, when the ship was detained.

lingham, 321 U. S. 503, 517; cf. *Dore* v. *United States*, 119 C. Cls. 560; *Safeway Sto*[re]*s, Inc.* v. *United States*, 118 C. Cls. 73, certiorari denied, 341 U. S. 953; *Lord Manufacturing Co.* v. *United States*, 114 C. Cls. 199, certiorari denied, 339 U.S. 956. It was not until October 16, 1941, that M-22 was amended to require acceptance of orders for silk by the Government or by Government contractors. The Court of Claims found that a taking occurred at that time.

(b) Petitioners' argument that a taking occurred on July 26, 1941, rests ultimately on the assertion that the order of that date was "not what it appeared to be upon its face" (Pet. p. 14) but was part of a "well-coordinated predetermined plan" (Pet. p. 26) to take silk at less than market prices. To support this, petitioners rely on evidence that the freeze order of July 26, 1941, had been previously discussed at cabinet level and that, following such discussions, officials of the Office of Production Management and the Office of Price Administration and Civilian Supply referred to the possibility that the Government would take over all silk.

The record fails completely to show any "predetermined plan" of the character asserted. On the contrary, the court below expressly found that "the evidence does not satisfactorily show what discussion, if any, took place between [OPM and OPACS] on or prior to July 26, 1941, with respect to the acquisition of silk" (Pet. App. p. 22). Doubtless, various preparatory efforts were being made in order to be ready to deal with shortage

and priority problems which the rapidly-changing international situation might create or aggravate. Previous awareness of the importance of silk in a war economy is shown by a discussion of proposed stockpiling initiated by an officer of one of petitioners (Pet. App. pp. 40-41). The end of silk imports from Japan on July 26, 1941, required action by OPM to prevent the limited supplies from being dissipated in non-essential uses preparatory to analysis of Government needs. Furthermore, OPACS, which had previously felt that price fixing would endanger silk imports, then felt free to act. (Pet. App. p. 27.)[7] But even on August 2, 1941, when Price Schedule No. 14 was issued, the opinion of the OPACS officials with respect to Government needs was only that "a large part" of it "may be required for defense needs" (Pet. App. p. 23). Of course, the final decision to take over all raw silk must have been preceded by discussion and study of the situation. This does not serve to push back the date of the actual taking.

2. (a) In attacking the court's finding that $3.08 a pound was just compensation for the value of

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[7] "The fixing of a ceiling price by the Office of Price Administration immediately after the President's Order which in effect shut off further importations of raw silk was not a part of any such plan. It was a recognition that no more of this essential commodity could be lured into the country by letting prices increase and that the scarcity which would result from shutting off the supply would probably cause prices to rise unreasonably. The decision was made by officials at an operational level who were not in consultation with officials of other Government agencies interested in the use of silk." 111 C. Cls. at p. 741.

their silk, petitioners stress that the Executive had no authority to fix prices prior to the enactment of the Emergency Price Control Act of January 30, 1942, 56 Stat. 177, and that it was improper to rely on the ceiling price fixed by the Office of Price Administration and Civilian Supply (Pet. pp. 17-20).

This question, however, is not presented by this case. It is clear from the *Stahel* opinion that just compensation was not based on the ceiling price, but was arrived at after an independent judicial determination. The Court of Claims explicitly stated in *Stahel* that it was unnecessary to decide whether OPACS had sufficient authority to set ceiling prices "because we think that the price of $3.08 per pound represented a fair price and just compensation for the silk taken." 111 C. Cls. at 744. The court then discussed the price record of silk between 1930 and 1941, and stated its conclusions that the rise from July 21 to July 25 was an "extraordinary fluctuation" and that $3.08 a pound was "not less than the fair value." 111 C. Cls. at 744-745.[8] The court also declared its agree-

[8] "The rise from $3.08 on July 21 to $3.57 on July 25 was an extraordinary fluctuation, and is not a measure of the fair value of the silk as of the later time when it was taken. There being no market, in the usual sense, for silk at the time of taking, the court must make its decision as to just compensation out of such materials as are at hand. * * * Considering then the nature of the events which caused the extraordinary rise in the price of silk in the few days preceding the closing of the market, the normal prices of silk as shown by the tables cited, and the cost of the silk to the owners, we conclude, as this court did in *Walker et al.* v. *United States*, 105 C. Cls. 553, that the $3.08 which the plaintiffs were paid was not less than the fair value of their silk." 111 C. Cls. at 744-45.

ment with the $3.08 valuation of requisitioned silk in *A. D. Walker & Co.* v. *United States,* 105 C. Cls. 553 (*supra,* p. 8), a case in which ceiling prices were no longer in effect at the time of taking. Plainly, therefore, petitioners are faced with an independent judicial determination of the Court of Claims as to the value of their silk.

(b) This factual determination is fully supported by the findings and the evidence. Consideration of the price history of silk (Pet. App. pp. 16-17) clearly indicates the extraordinary nature of the July 21 to July 25, 1941, price fluctuation. The inflationary spurt, as the Court of Claims found (Pet. App. 19-20), was caused not only by a more or less general awareness of unsettled world conditions, but was stimulated by an acute apprehension among dealers that there would be a break in the supply of silk. Further demonstrating the abnormality of the prices which prevailed between July 21 and July 25 is the fact that they were entirely out of line in relation to contemporaneous prices in Japan (Pet. App. p. 19).

Petitioners object to the fact that the price history of silk was considered (Pet. p. 22). But the court was compelled to look back because of the absence of any market on October 16, 1941. See 111 C. Cls. at 744. It is well settled that a court must look for other standards where there is no market value at the time of taking or where the market value is an "inappropriate measure of actual value." *United States* v. *General Motors Corp.,* 323 U. S. 373, 379; *United States* v. *Com-*

modities Trading Corp., 339 U. S. 121, 123; *United States* v. *Cors*, 337 U. S. 325, 332.

Petitioners concede this but wish to look only to July 25, 1941, when raw silk was sold at $3.57 a pound. The Court of Claims properly examined that extraordinary price against normal prices and concurrent market conditions. Doing so, it concluded that $3.57 was "not a measure of the fair value of the silk as of the later time when it was taken," 111 C. Cls. at 744. The "just compensation" guaranteed by the Fifth Amendment does not include increments arising from the pressures of a defense economy and emergency needs (*United States* v. *Cors*, 337 U. S. 325; *Coffman* v. *Federal Laboratories, Inc.*, 171 F. 2d 94 (C. A. 3), certiorari denied, 336 U. S. 913; *Lord Mfg. Co.* v. *United States*, 114 C. Cls. 199, certiorari denied, 339 U. S. 956) or from similar special inflationary influences (*United States* v. *Commodities Trading Corp.*, 339 U. S. 121, 129).

Petitioners object that the court considered, among other things, the cost of the silk to the owners. However, the general rule that cost will not be considered applies only when the court finds a market value as of the time of taking which can be utilized as the measure of compensation (*United States* v. *New River Collieries*, 262 U. S. 341, 344-345). Unavailability of the usual criteria necessitates the consideration of other factors. *Dore* v. *United States*, 119 C. Cls. at 588; *Lord Mfg. Co.* v. *United States*, *supra*. Furthermore, while in *Stahel* the Court of Claims made cost findings as

to the individual petitioners, this was not done here. Cost figures which were utilized relate to the industry as a whole. This type of overall data was certainly relevant, in the circumstances, to a determination of just compensation. See *United States* v. *Felin & Co.*, 334 U. S. 624, 632-642.

CONCLUSION

It is respectfully submitted that the petition should be denied.

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MARCH, 1955.

APPENDIX

1. The Act of May 31, 1941 (55 Stat. 236) which amended the Act of June 28, 1940 (54 Stat. 676) provides:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 2 of the Act approved June 28, 1940 (Public, Numbered 671, Seventy-sixth Congress), as amended, is amended by inserting "(1)" after "SEC. 2(a)" and by adding at the end of subsection (a) thereof the following:
>
> "(2) Deliveries of material to which priority may be assigned pursuant to paragraph (1) shall include, in addition to deliveries of material under contracts or orders of the Army or Navy, deliveries of material under—
>
> "(A) contracts or orders for the Government of any country whose defense the President deems vital to the defense of the United States under the terms of the Act of March 11, 1941, entitled 'An Act to promote the defense of the United States';
>
> "(B) contracts or orders which the President shall deem necessary or appropriate to promote the defense of the United States; and
>
> "(C) subcontracts or suborders which the President shall deem necessary or ap-

propriate to the fulfillment of any contract or order as specified in this section.

Deliveries under any contract or order specified in this section may be assigned priority over deliveries under any other contract or order. Whenever the President is satisfied that the fulfillment of requirements for the defense of the United States will result in a shortage in the supply of any material for defense or for private account or for export, the President may allocate such material in such manner and to such extent as he shall deem necessary or appropriate in the public interest and to promote the national defense. The President shall be entitled to obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or corporation as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section. No person, firm, or corporation shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from his compliance with any rule, regulation, or order issued under this section. The President may exercise any power, authority, or discretion conferred on him by this section, through such department, agency, or officer of the Government as he may direct and in con-

formity with any rules and regulations which he may prescribe."

2. The following Order was issued by the Office of Production Management on July 26, 1941 (6 F.R. 3731):

General Preference Order M-22 To Conserve Supply and Direct the Distribution of Silk.

Whereas, the uncertainty of future shipments of Raw Silk from abroad and national defense requirements for Silk have created a shortage thereof and it is necessary, in the public interest and to promote the defense of the United States, to conserve the supply and direct the distribution of Silk;

Now, therefore, it is hereby ordered, That:

§ 963.1 *General preference order*—(a) *Definitions.* For the purposes of this Order:

"Person" means and includes any individual, partnership, association, corporation or other form of enterprise.

(b) *Restrictions on deliveries.* No Person shall hereafter make delivery, and no Person shall accept delivery, of Raw Silk unless specifically authorized by the Director of Priorities: *Provided, however,* That deliveries of imported Raw Silk may be made without restriction to any Person importing the same, either directly or through an agent.

(c) *Restrictions on processing.* No Person

shall during the week commencing Monday, July 28, 1941, or during any succeeding week, knit, weave or otherwise process thrown Silk in excess of that knit, woven or otherwise processed by him during the week ending July 26, 1941, unless specifically authorized by the Director of Priorities.

(d) *Appeal.* Any Person who considers that compliance with this Order will work an undue hardship upon him may appeal by telegraph or mail to the Director of Priorities, Office of Production Management, Washington, D. C., setting forth the pertinent facts and the reason such Person believes that he is entitled to relief.

* * * * *

E. R. STETTINIUS, JR.

3. The following Amendment to General Preference Order M-22 was issued by the Office of Production Management on August 2, 1941 (6 F.R. 3892):

Amendment to General Preference Order No. M-22 To Conserve the Supply and Direct the Distribution of Silk.

(a) § 963.1. *General Preference Order No. M-22* is hereby amended as follows:

(1) Paragraph (c) of said section is hereby amended to read as follows:

(c) *Restrictions on processing.* (1) No Person shall during the week commencing Monday, July 28, 1941, or during any succeeding week, knit, weave, or otherwise process thrown Silk in excess of that knit, woven, or otherwise processed by him during the week ending July 26, 1941, unless specifically authorized by the Director of Priorities.

(2) No Person shall after twelve o'clock midnight on Saturday, August 2, 1941, throw, spin or otherwise process raw Silk, unless specifically authorized by the Director of Priorities.

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E. R. STETTINIUS, JR.

4. The following Amendment to General Preference Order M-22 was issued by the Office of Production Management on August 12, 1941 (6 F.R. 4046):

Amendment to General Preference Order No. M-22 To Conserve the Supply and Direct the Distribution of Silk.

(a) Section 963.1 (General Preference Order No. M-22) is hereby further amended as follows:

(1) Paragraph (b) of said section is hereby amended to read as follows:

(b) *Restrictions on deliveries.* No Person shall hereafter make delivery, and no Person

shall accept delivery, of Raw Silk unless specifically authorized by the Director of Priorities: *Provided, however,* That deliveries of imported Raw Silk may be made without restriction to any Person importing the same, either directly or through an agent, *And provided further,* That deliveries of Raw Silk may be made without restriction by or to Defense Supplies Corporation, or pursuant to its instructions.

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E. R. STETTINIUS, JR.

5. The following Amendment to General Preference Order M-22 was issued by the Office of Production Management on October 16, 1941 (6 F. R. 5290):

Amendment to General Preference Order No. M-22 to Conserve the Supply and Direct the Distribution of Silk.

Whereas, the uncertainty of future shipments of raw silk from abroad and national defense requirements for silk have created a shortage thereof and it is necessary in the public interest and to promote the defense of the United States to conserve the supply and to allocate the said supply in the manner and to the extent in this Order provided;

Now, therefore, it is hereby ordered, That:

General Preference Order No. M-22 is hereby amended to read as follows:

§ 963.1 *General Preference Order No. M-22* —(a) *Applicability of Priorities Regulation No. 1.* All of the provisions and definitions of Priorities Regulation No. 1, issued by the Director of Priorities on August 27, 1941, shall be deemed a part of this Order, except in so far as they are inconsistent herewith.

(b) *Required and permitted deliveries.* (1) The following orders are hereby assigned a preference rating of A-10, and acceptance thereof is required:

(i) Any contract or order for silk cloth, shroud lines, tape or thread for either life, materiel, or flare parachutes placed by the War Department, the Navy Department, or the Department of Commerce for such parachutes to be delivered to or for the account of the Army, Navy or Weather Bureau of the United States.

(ii) Any contract or order for silk in any form required by the person placing the same to fulfill his contracts or orders on hand, provided such silk is to be physically incorporated in material to be delivered under contracts or orders included under (i) above.

(iii) Any contract or order for raw silk placed by the Defense Supplies Corporation.

(2) Deliveries of imported raw silk may be made to any person importing the same, either directly or through an agent.

(c) *Restrictions on deliveries.* Notwith-

standing anything in Priorities Regulation No. 1 to the contrary, no person shall hereafter sell or otherwise transfer title to, or make any deliveries, and no person shall purchase or accept delivery of Raw Silk except as provided in paragraph (b) hereof, unless specifically authorized by the Director of Priorities.

(d) *Restrictions on throwing, weaving and other processing.* (1) No person shall, during any week, knit, weave or otherwise process thrown silk in excess of the amount knit, woven or otherwise processed by him during the week ending July 26, 1941, unless specifically authorized by the Director of Priorities.

(2) No person shall throw, spin or otherwise process Raw Silk except as otherwise provided herein or unless specifically authorized by the Director of Priorities.

(e) *Reports.* Each person delivering or accepting delivery of Raw Silk in accordance with paragraph (b) hereof, or as specifically authorized by the Director of Priorities, shall, on or before the close of the next business day following such delivery or acceptance notify the Textile Section Research Department, Office of Production Management, in writing, of the amount, the bale numbers, origin, denier size and color of any bales of Raw Silk so delivered or accepted, the names and addresses of the persons delivering and accepting delivery, and the identifying number or numbers

of the War, Navy, or Commerce Department contracts in material delivered under which such Raw Silk is to be physically incorporated.

(f) *Appeal.* Any person who considers that compliance with this Order would work an undue hardship upon him may appeal by telegraph or mail to the Director of Priorities, Office of Production Management, Washington, D. C., setting forth the pertinent facts and the reason such person believes that he is entitled to relief.

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DONALD M. NELSON,
Director of Priorities.

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